

## Message Text

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ACTION ARA-10

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FM AMEMBASSY PANAMA

TO SECSTATE WASHDC 8429

INFO PANCANAL

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E.O. 11652: N/A

TAGS: PFOR, PN

SUBJECT: SMITHSONIAN TROPICAL RESEARCH INSTITUTE (STRI)

REF: A. 75 PANAMA 6569; B. PANAMA 4857

1. GOP NOTE OF JULY 2 (REF B) IS REJECTION OF OUR PROPOSAL OF NOVEMBER 4, 1975 (REF A) THAT PANAMANIAN LAW 57 APPLICABLE TO PROPOSED CONTRACTUAL RELATIONSHIP BETWEEN STRI AND GOP MINISTRY OF HEALTH BE AMENDED TO REMOVE REQUIREMENT FOR INCLUSION OF A CALVO CLAUSE. EMBASSY HAS DISCUSSED THIS NOTE WITH STRI DIRECTOR RUBINOFF.

2. RUBINOFF STATED THAT HE PERSONALLY FORESAW THIS AT TIME OF NATIONAL LEGISLATIVE COMMISSION (NLC) HEARING ON MATTER WHICH HE ATTENDED SEVERAL WEEKS AGO. MINISTER OF HEALTH SAIED AND FOREIGN MINISTRY LEGAL ADVISER NARCISO GARAY WERE BOTH PRESENT AT HEARING AND URGED IN FAVOR OF MODIFICATION IN LAW. NLC WAS SYMPATHETIC, BUT POINTED OUT THAT SUCH MODIFICATION WOULD CONFLICT WITH PROVISIONS OF GOP FISCAL CODE RELATING TO CONTRACTS INVOLVING GOP AGENCIES, WHICH SPECIFY, INTER ALIA, INCLUSION OF SUCH PROVISION--PRESENT WORDING OF LAW 57 IS APPARENTLY DRAWN VERBATIM FROM FISCAL CODE.

3. RUBINOFF ADVISED HIS SUPERIORS AT SMITHSONIAN OF  
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THIS AT TIME, ALONG WITH HIS PERSONAL VIEW THAT IT

PORTENDED OFFICIAL NLC AND GOP REJECTION OF OUR REQUEST. HE SAID THAT SMITHSONIAN HAD DETERMINED THAT IT WOULD PROCEED TO SIGN CONTRACT IN CONFORMITY WITH LAW 57 AS ITS PRESENTLY STANDS. FYI: EMBASSY PRESUMES THIS IS WHAT WAS STATED DURING SMITHSONIAN OFFICIAL'S MEETING WITH ASSISTANT SECRETARY SCHLAUDEMAN ON JULY 13. END FYI.

4. RUBINOFF ALSO SAID HE HAD DISCUSSED MATTER AGAIN WITH NARCISO GARAY SUBSEQUENT TO NLC HEARING. ACCORDING TO RUBINOFF, GARAY INDICATED THAT IF USG SHOULD WISH TO SUBMIT TO GOP A NOTE (ALONG LINES DISCUSSED 75 PANAMA 5439) AFFIRMING NON-PRECEDENTIAL CHARACTER OF STRI ACTION AND STATING THAT USG DOES NOT CONSIDER ITSELF BOUND BY CALVO CLAUSE CONTAINED IN STRI CONTRACT, GARAY DOUBTED THAT THIS WOULD CAUSE ANY PARTICULAR PROBLEM FOR GOP.

5. RUBINOFF INFORMS EMBASSY THAT STRI IS TAKING STEPS NECESSARY TO OBTAIN "PERSONERIA JURIDICA" (EQUIVALENT OF LEGAL CORPORATE REGISTRATION) IN PANAMA AS PREREQUISITE TO SIGNING CONTRACT WITH MINISTRY OF HEALTH. UNLESS HIS SUPERIORS IN WASHINGTON CHANGED THEIR MINDS, RUBINOFF SAID, HE EXPECTED THAT HE WOULD BE AUTHORIZED TO PROCEED WITH CONTRACT SIGNING ONCE REGISTRATION FORMALITIES ARE COMPLETE.

6. REQUEST THAT DEPT VERIFY WHETHER OR NOT SMITHSONIAN OFFICIALS IN WASHINGTON INTEND TO AUTHORIZE RUBINOFF TO PROCEED. IF SO, REQUEST DEPT GUIDANCE AS TO OUR RESPONSE IN THIS SITUATION TO GOP NOTE REF A, I.E., WHETHER WE ARE TO SUBMIT NOTE SUCH AS THAT REFERRED TO IN PARA 4 ABOVE TO MINISTRY AT TIME STRI SIGNS ITS CONTRACT.  
JORDEN

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